

The York County Board of Commissioners, ex-officio the York County Board of Equalization, met June 30, 2009 at 1:00 p.m. as per notice in the York News Times on June 25, 2009, with Chairman, Augustus M. Brown, Jr. presiding with Eugene Bergen, Steve Neujahr, Kurt Bulgrin and Pat Bredenkamp. Also present at the meeting were Ann Charlton, County Assessor and Tim Sieh, County Attorney along with Melanie Wilkinson, correspondent for the York News Times.

The agenda of the meeting was posted on the bulletin board in the County Clerk’s office and a copy of the agenda was made available to each Commissioner.

Chairman Brown announced that the open meetings law would be in effect and that a copy was posted on the outside of the door, inside the Board Room and copies were also available in the back of the room. Proof of publication was also available.

Moved by Bergen, seconded by Neujahr to approve the June 16, 2009, Board of Equalization minutes; roll call: yeas, Bergen, Neujahr, Bulgrin, Bredenkamp and Brown; nays, none; motion carried.

Moved by Bulgrin seconded by Bredenkamp to amend the agenda to include the other protests that Ann has before us today; roll call: yeas, Bulgrin, Bredenkamp, Neujahr, Bergen and Brown; nays, none; motion carried.

Moved by Bulgrin, seconded by Bredenkamp to approve the agenda as amended; roll call: yeas, Bulgrin, Bredenkamp, Bergen, Neujahr and Brown; nays, none; motion carried.

Charlton read into the minutes the General Evidence for the 2009 protests which includes the list of materials used to value the property. She stated “This is submitted now for any other protest hearing that the Board may have.”

- Public notice of value completion
- Equalization findings by the Nebraska Tax Equalization and Review Commission
- The 2009 level of value as determined by the Tax Equalization and Review Commission
- Calculations of value
- Materials and manuals used in the process of valuation
- The valuation process for all property (real, ag, commercial)
- Soil conversion table
- The 2009 land valuation groups and values
- Data used to determine special use area such as green belt
- How market areas are determined in the City of York
- How market areas are determined in the rural area
- Neighborhood numbers in the county commercial cost table site improvement
- The comparison of value changes from 2006 to 2009

Protests were considered as follows:

- #1      Ralph Brumbaugh (Lt 2 North Circle Addn. City of York)
  - Valuation as set by the Assessor      \$105,853.00
  - Requested value      \$96,578.00

Owner’s Reason for Valuation Change:

He felt that there were 3 reasons for protesting. #1 – prices are being inflated by York General Health Care’s purchase of homes in the area due to a possible expansion #2 – Home is located directly across from Del Ray Plaza (government subsidized housing) where police officers are regularly dispatched and the grounds are not kept up. #3 The traffic in the area has greatly increased due to the industries located to the north.

- #5      Clifford E. & Patricia A. Huffman (S 2’ Lt 4 & N 70’ Lt 5 North Circle Addn. City of York)
  - Valuation as set by the Assessor      \$93,973.00
  - Requested value      \$80,019.00

Owner’s Reason for Valuation Change:

Clifford and Patricia Hoffman appeared along with their daughter Nancy Meister (tenant). Mrs. Huffman was sworn in. She stated that the area is infected with termites and no one could get \$93,973. It is a small 3 bedroom, 1 bath, and 1 car garage home. Also, York General Hospital is buying up homes in the area for possible development. The Board will take that information into consideration when making a decision.

- #2      Carolyn J. Krula (Lt 1 North Circle Addn. City of York)
  - Valuation as set by the Assessor      \$84,096.00
  - Requested value      \$74,305.80

Owner’s Reason for Valuation Change:

Compared to Circle Drive over taxed – live across from Del-Ray Apts. - Frequent police calls.

- #4      Mearl Clayton (W 160’ of N 80’ of S 150’ Lt 10 blk 1 Coddington’s Sub. City of York)
  - Valuation as set by the Assessor      \$86,782.00
  - Requested value      \$81,029.00

Owner’s Reason for Valuation Change:

No. 1. Nationwide, properties may be over assessed by as much as 60%. The bubble has burst and the property values have dropped. No. 2 The houses bought by the Hospital should not be used to determine the valuation of the houses in this area. No. 3 Some of the remaining properties have been changed into rentals. No. 4 Termite problems

- #3      Donald D Raasch (E 65.6’ of N 48.2’ Lt 5, E 65.6’ Lt 4 & E 65.6’ of S 12.4’ Lt 3 Blk 26 College Addn. City of York)
  - Valuation as set by the Assessor      \$115,011.00
  - Requested value      \$93,000

Owner’s Reason for Valuation Change:

He has worked on the roof of the patio due to hail and water damage and replaced tile and basin in bathroom. The valuation has increased by 60% from the previous valuation. I cannot see any justification for any such increase.

#11 Todd Faller (N 73' Lt 4 North Circle Addn. City of York)  
Valuation as set by the Assessor \$96,470.00  
Requested value \$82,000.00

Owner's Reason for Valuation Change:

Valuation increased by 26%. Prices inflated because of purchase by hospital in N. Circle Drive.

#12 Clifford W & Katherine Zeliff (Lt 2 First Christian Church Addn. City of York)  
Valuation as set by the Assessor \$66,025.00  
Requested value \$52,910.00

Owner's Reason for Valuation Change:

The property described has been utilized as farmland since 1980. Requested that the valuation of the property remain at its 2008 level of \$52,910.00.

The City of York's filed protests #6-#10. They are challenging the tax exempt status of the property and not the valuation. They stated that the property should be deemed to be tax exempt.

#6 City of York (SW ¼ of 33-11-2)  
Valuation as set by the Assessor \$225,600.00  
#7 City of York (IT 23 W ½ NE ¼ in NE ¼ (except IT 22 and 24) All in 32-11-2)  
Valuation as set by the Assessor \$184,626.00  
#8 City of York (NE ¼ 5-10-2)  
Valuation as set by the Assessor \$372,290.00  
#9 City of York (Pt W ½ of NW ¼ exc. S 1,123' of W 392.5' thereof in section 33-11-2)  
Valuation as set by the Assessor \$169,400.00  
#10 City of York (E ½ SE ¼ 32-11-2)  
Valuation as set by the Assessor \$184,675.00

Charles Campbell, York City Attorney; Jack Vavra, City Administrator and Rich Robinson of Kirkham Michael appeared regarding the protests. Robinson presented information regarding the water system master plan; hydrogeologic investigation and conceptual wellfield design; environmental consultation; groundwater modeling for wellfield; wellfield sites approved by Nebraska Health and Human Services and current engineering activities. Campbell cited case law that the properties should be exempt and referring back to the case of the County of York vs. The City of York as to the Industrial Park and the decision of the Supreme Court which found that *The primary or dominant use, and not an incidental use, is controlling in determining whether property is exempt from taxation.* "If the lease of the property for \*316 agricultural use is incidental to the primary or dominant use, then the property is not subject to taxation. We conclude that renting the property for \$135 per acre for agricultural purposes is incidental to the land's primary purpose as a landfill, the purpose for which the land was condemned. The 44 acres of land at issue was acquired for use as a landfill at a total cost of \$216,191. The fact that the Agency derives income from the leased property does not change its primary purpose. \*317 Thus, TERC erred in finding that the leased property is not being used for a public purpose and in determining that it is taxable. Also cited was §77-202 (1) The following property shall be exempt from property taxes: (a) Property of the state and its governmental subdivisions to the extent used or being developed for use by the state or governmental subdivision for a public purpose... public purpose means use of the property (i) to provide public services... including...public works, ...public health... or (ii) to carry out the duties and responsibilities conferred by law with or without consideration. Public purpose does not include leasing of property to a private party unless the lease of the property is at fair market value for a public purpose. He stated that the primary or dominate use was water supply.

The Board questioned how the land was being used to which Vavra replied that it was custom farmed 60/40 and that it would be next year also.

The Board will make a decision at a later date.

Protests #27 through 36 were also filed by the City of York. These are the Industrial Tract properties. They have been exempt for several years, however, by regulation, the Assessor is to notify the City of York of the value of any property that is in the Tax Increment Financing (TIF) area because when that property is sold it goes into the regular tax base and a value has to be established. She did not send the City a notice to tax.

Campbell questioned Charlton "There was no intent to determine these properties to be taxable at this time and if there were to be an intention to tax these properties, the city would be notified?" Charlton stated "Yes, by law, she has to notify that there would be an intention to tax." Campbell questioned, "Beyond simply valuing the properties?" Charlton stated "That is correct." Based on that information, Campbell asked that the protests be withdraw. The Board approved the withdrawl.

There being no further business, the Board adjourned at 2:47 p.m. The next meeting will be July 7, 2009 at 7:00 p.m. in the Commissioners room, lower level of the Courthouse.

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Augustus M. Brown, Chairman  
York County Board of Commissioners

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Cynthia D. Heine, County Clerk  
York, Nebraska